



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Fillmore Field Office

95 East 500 North

Fillmore, UT 84631

<http://www.blm.gov/ut/st/en/fo/fillmore.html>



IN REPLY REFER TO:
3600 (UTW02000)
UTU-79870

September 26, 2014

RECEIVED

SEP 29 2014

DIV. OF OIL, GAS & MINING

CERTIFIED MAIL # 7012 3460 0000 6633 2452
RETURN RECEIPT REQUESTED

DECISION

Ms. Jean Smith	:	43 CFR 3600
73 North Hastings	:	Mineral Materials
Nampa, Idaho 83687	:	

Operation Abandoned – Reclamation Bond Forfeited by Consent

Operation Abandoned – The Fillmore Field Office (FFO) has inspected your mineral materials exclusive sale site, the Ruby Red Quarry, Bureau of Land Management (BLM) case file number UTU-79837, on April 23, 2008; May 10, 2011; May 31, 2012; on May 17, 2013; and on June 26, 2014. Your sale contract for this location expired on October 2, 2007. We have determined that your operation has been abandoned. During our inspections since 2007, no operations personnel or equipment were present in the project area and there has been no sign of new activity. We have also determined that reclamation on the project is not complete as required by your sale contract and the applicable rules in the Code of Federal Regulations (CFR).

Your abandoned operation is located in the House Range of Millard County, Utah in aliquot parts of Section 35, Township 17 South, Range 13 West; Salt Lake Meridian. The abandoned operation is located entirely on Federal public lands managed by the BLM.

Reclamation Required – The required reclamation of the quarry site has not been completed, and the \$1,700.00 Financial Guarantee, or reclamation bond, held by the BLM is not adequate in 2014 to complete all reclamation requirements. That bond amount has been held by the BLM since October 2, 2002, but reclamation costs, particularly for fuel, have increased considerably in the 12 years since the Financial Guarantee was originally submitted.

The BLM Fillmore Field Office has determined that the most favorable option is to forfeit the bond, apply the forfeited bond to partially reclaim the site in order to ensure public safety, and then convert the quarry to a BLM Community Pit for mineral materials purchases. When the proposed Community Pit is authorized, members of the public and companies will then be able to purchase quantities of the red and gray flagstone from the BLM.

Reclamation Bond Forfeiture – As requested by the BLM, you met with staff of the BLM FFO on Tuesday, July 1, 2014, at 9 am. At that meeting, the BLM explained that if you are unable to complete all reclamation obligations, then we will initiate forfeiture of the \$1,700.00 bond. The reclamation bond is only available for return when all reclamation obligations are completed, and the revegetation component of reclamation typically requires at least three years in the arid environment of the Great Basin.

The BLM also explained in the meeting that to meet all reclamation requirements in 2014 would be considerably more expensive than the \$1,700.00 amount held since 2002. You agreed that the cost of reclamation in 2014 would be considerably higher than \$1,700.00, and you agreed to forfeit the bond because you do not have the resources to complete the required reclamation.

On September 24, 2014, Jim Kelsey, the other party listed on your mineral materials contract, responded to a telephone message left several days earlier. Mr. Kelsey gave his consent in a telephone conversation on that date to forfeiture of the reclamation bond. He indicated that he understood that the only other option available, other than forfeiture, would be to fully reclaim the site at greater expense than the bond amount held by the BLM.

BLM will therefore initiate forfeiture of your financial guarantee of \$1,700.00 as provided for under 43 CFR 3602.21(b). You have been unable to meet the terms and conditions of your contract with the BLM, and as provided in that section, you will forfeit all funds that you paid for your reclamation, or performance, bond.

Appeal of the Decision - If you do not agree and are adversely affected by this decision, you may request that the BLM Utah State Director review this decision. If you request a State Director review, the request must be received in the BLM Utah State Office at:

Utah State Office
Bureau of Land Management
440 West 200 South, Suite 500
Salt Lake City, Utah 84101-1345

The request must be received no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to the FFO. The request must be in accordance with the provisions provided in 43 CFR §3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision regarding your request for review of this decision within 21 days of the BLM's receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the BLM Utah State Office to determine when the BLM receives the request for State Director Review. You have 30 days from the end of the 21 day period in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to bypass a State Director review, this decision may be appealed directly to the IBLA in accordance with the regulations contained in 43 CFR Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in the FFO at:

Fillmore Field Office
Bureau of Land Management
95 East 500 North,
Fillmore, Utah 84631

Your notice of appeal must be filed within 30 days from the receipt of this decision. The appellant has the burden of proof showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal.

A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the IBLA and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with the FFO. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

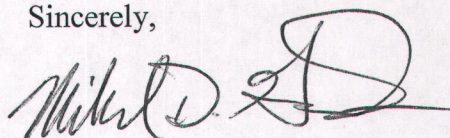
Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a Stay of a decision pending appeal shall show sufficient justification based on the following standards:

2. The relative harm to the parties if the stay is granted or denied,
3. The likelihood of the appellant's success on the merits,
4. The likelihood of immediate and irreparable harm if the Stay is not granted, and
5. Whether the public interest favors granting the Stay.

If you have any questions, please contact Duane Bays, Fillmore Field Office Natural Resource Specialist, at (435) 743-3115.

Sincerely,



Michael D. Gates
Field Manager

Attachments:

Form 1842-1
Zions Bank CD – BLM Assignment

cc:

Paul Baker

Utah Division of Oil, Gas and Mining

Re: S/027/0068

1594 West North Temple, Ste 1210

Salt Lake City, Utah 84114-5801

Utah State Office

Bureau of Land Management

Solid Minerals (UT-923)

440 West 200 South, Suite 500

Salt Lake City, UT 84101-1345

Jim Kelsey

P.O. Box 274

Paris, Idaho 83261-0274